

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

MICHAEL BOROVSKY,)	
GOLDSMITH LLC D/B/A MB)	
GOLDSMITHS,)	
Plaintiff,)	
)	
)	CIVIL ACTION NO. <u>5:17-CV-197</u>
v.)	
)	(Removed from the General Court of
)	Justice, Superior Court Division,
)	Wake County, State of North Carolina)
)	
JEWELERS MUTUAL)	
INSURANCE COMPANY,)	
)	
Defendant.)	

DEFENDANT JEWELERS MUTUAL INSURANCE COMPANY'S
NOTICE OF REMOVAL

Jewelers Mutual Insurance Company ("Jewelers Mutual"), defendant in the above-styled matter, within the time prescribed by law and pursuant to 28 U.S.C. § 1441, files this notice of removal, respectfully showing the Court as follows:

1.

Plaintiff Michael Borovsky Goldsmith LLC d/b/a MB Goldsmiths ("MB Goldsmiths") has filed a complaint against defendant Jewelers Mutual Insurance Company in the General Court of Justice, Superior Court Division of Wake County, State of North Carolina, which county is within the United States District Court for the Eastern District of North Carolina and the Western Division of this Court. The lawsuit is styled as above and is numbered as case no. 17 CVS 003060.

2.

In its complaint, MB Goldsmiths has raised claims of breach of contract, breach of the implied covenant of good faith and fair dealing, and bad faith against Jewelers Mutual. At the conclusion of each of MB Goldsmiths' three counts of its complaint, MB Goldsmiths states that it suffered damages "in an amount that exceeds Twenty-Five Thousand Dollars (\$25,000.00) including, but not limited to, special damages for lost profits and loss of business income." (Complaint, ¶¶ 29, 34, 40). Then, in Paragraph 41 of Count Three of the Complaint, MB Goldsmiths adds that it "is entitled to recover punitive damages from Defendant in an amount that exceeds Twenty-Five Thousand Dollars (\$25,000.00)." In sum, MB Goldsmiths has asserted separate prayers for relief for \$25,000.00 following each count, plus an additional \$25,000.00 for punitive damages under Count Three. When added together, MB Goldsmiths seeks a total recovery from Jewelers Mutual in excess of \$100,000.00. Because the damages claimed in the lawsuit exceed the sum or value of \$75,000.00, exclusive of interest and costs, the amount in controversy satisfies the jurisdictional prerequisite of 28 U.S.C. § 1332.

3.

Upon information and belief, Michael Borovsky is the only member of Michael Borovsky, Goldsmith LLC. Also upon information and belief, Michael Borovsky is a citizen and resident of the State of North Carolina, and he resides at 12233 Beestone Lane, Raleigh, North Carolina 27614.

4.

Jewelers Mutual is a corporation organized and existing under the laws of the State of Wisconsin, with its principal place of business located in Neenah, Wisconsin. At no time has Jewelers Mutual been organized and existing under the laws of the State of North Carolina, nor

at any time has its principal place of business been located in the State of North Carolina. Accordingly, there is complete diversity of citizenship between plaintiff MB Goldsmiths and defendant Jewelers Mutual.

5.

The amount in controversy in this lawsuit exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and there is complete diversity of citizenship between plaintiff MB Goldsmiths and defendant Jewelers Mutual. Accordingly, this case is subject to the original jurisdiction of this Court under 28 U.S.C. § 1332, and this case may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446.

6.

MB Goldsmiths commenced this action on March 10, 2017, by filing a complaint in the General Court of Justice, Superior Court Division of Wake County, State of North Carolina. Jewelers Mutual was served with a copy of the summons and complaint on March 29, 2017 by delivery to its Officer, Director, or Managing Agent.

7.

This notice of removal is being filed within thirty (30) days of service of MB Goldsmith's complaint on Jewelers Mutual.

8.

Attached to this notice of removal as Exhibit "1" are true and correct copies of MB Goldsmith's complaint and all summons, process and other pleadings served upon Jewelers Mutual in this case, as required by 28 U.S.C. § 1446(a).

9.

Jewelers Mutual has given written notice of the filing of this notice of removal to MB Goldsmiths by mailing a copy of this notice to its attorney of record, Adam M. Gottsegen, Nicholls & Crampton, P.A., P.O. Box 18237, Raleigh, North Carolina 27619.

10.

In compliance with 28 U.S.C. § 1446(a), Jewelers Mutual has given written notice of the filing of this notice of removal to Jennifer Knox, Clerk of Court, General Court of Justice, Superior Court Division of Wake County, State of North Carolina, P.O. Box 351, Raleigh, North Carolina 27602, a copy of which is attached to this notice of removal as Exhibit "2."

WHEREFORE, defendant Jewelers Mutual Insurance Company respectfully prays that the above-captioned lawsuit be removed to the United States District Court for the Eastern District of North Carolina, Western Division.

Respectfully submitted this 26th day of April, 2017.

/s/ Andrew A. Vanore, III
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **DEFENDANT JEWELERS MUTUAL INSURANCE COMPANY'S NOTICE OF REMOVAL** using the Court's CM/ECF System and served a true and correct copy of same via U.S. Mail, postage prepaid, on the following counsel of record:

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Attorneys for Plaintiff Michael Borovsky, Goldsmith LLC d/b/a MB Goldsmiths

This 26th day of April, 2017.

/s/ Andrew A. Vanore, III
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